

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



November 24, 2014

Christine Moseley Shiker
Holland & Knight LLP
800 17th Street, N.W. - Suite 1100
Washington, DC 20006

Re: Washington Humane Society - 1022 M Street, S.E. (Lot 14, Square 976)

Dear Ms. Shiker:

This is to confirm the substance of our discussions on August 19, 2014, regarding the proposed development of a new animal shelter facility for the Washington Humane Society ("WHS"). WHS is currently evaluating locating this new facility on property located at 1022 M Street, S.E. (Lot 14, Square 976) (the "Property"). WHS does not own the Property. The Property is zoned C-M-1, and it is not located within an Overlay District or within a historic district.

Animal Shelter Use

In the C-M-1 District, an animal shelter is permitted as a matter of right per § 801.7(a), subject to the following standards:

- (i) The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;
- (ii) Animal shelters shall place all animal waste in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system;
- (iii) Animal shelters shall not abut an existing residential use or a Residence District; and
- (iv) Outdoor runs and external yards for the exercise of animals shall be permitted, subject to the following requirements:

- A. No animals shall be permitted in outdoor runs or external yards between the hours of 8:00 p.m. and 8:00 a.m.;
- B. External yards and outdoor runs shall be enclosed with fencing or walls for the safe confinement of the animals and the absorption of noise. Fencing and/or walls shall be a minimum of eight (8) feet in height and constructed of solid or opaque materials with maximal noise- absorbing characteristics;
- C. No more than three (3) animals shall be permitted within any exterior yard or outdoor run at a time; and
- D. No part shall be located within two hundred (200) feet of an existing residential use or Residence District.

An animal shelter is defined as "[a]ny premises that houses and feeds stray or abandoned animals without a fee and is operated by a non-profit organization or governmental agency." 11 DCMR § 199.1. WHS is a non-profit organization that houses and feeds stray or abandoned animals without a fee.

With the development of the Property for animal shelter use, WHS proposes to create a state-of-the-art, model shelter center ("Shelter Center"). You have informed me that the Shelter Center will comply with the requirements of § 801.7(a), as may be amended by virtue of Zoning Commission Case No. 14-10.

You informed that the Shelter Center will house a variety of uses as part of the overall animal shelter use, including the following: animal care and housing; animal control; humane law enforcement; adoption services; veterinary medical center, including dental surgeries and medical imaging; spay-neuter clinic; shelter training center; and administration activities, including office, meeting rooms and storage support. In addition, the Shelter Center will include a variety of public programs, including an animal-themed museum, including small spaces for artist studios; a Community Conference Center and Youth Education Center, including auditorium, meeting areas and café; and a community training center, such as a "Doggie YMCA". Based on our review of the proposed program for the Shelter Center, I find that all of these identified uses are part of the overall animal shelter use, and are accessory uses customarily incidental to the animal shelter use and/or are otherwise permitted as a matter-of-right in the subject C-M-1 District.

You informed that two accessory uses may be part of the Shelter Center program, for which I have provided further evaluation as follows:

Commercial Animal Boarding

WHC would like to incorporate limited commercial animal boarding within the Shelter Center. The funds raised from such animal boarding would be used to support the ongoing mission of the WHC and the operation of the Shelter Center. You requested that I confirm this use is a permitted accessory use to the principal use of animal shelter.

The Board of Zoning Adjustment has generally found that an accessory use is one that constitutes less than 20% of the use. You cited Board of Zoning Adjustment Order No. 16333 as well as the DC Court of Appeals decision in *Ass'n for Preservation of 1700 Block of N Street v. Board of Zoning Adjustment*, 384 A2d 668 (D.C. 1978). In that case, the Court of Appeals upheld an interpretation by the Zoning Administrator finding a use accessory to the principal use based on the notion that such use could constitute as much as 20% of the overall use.

You informed me that the commercial animal boarding would not exceed 20% of the animal boarding occurring at the Shelter Center. Furthermore, the gross floor area designated for commercial animal boarding would not exceed 20% of the gross floor area designated for non-commercial animal boarding. Accordingly, I would view the limited commercial animal boarding as an accessory use that is permitted within the overall animal shelter use at the Shelter Center.

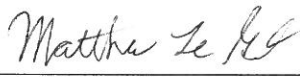
Veterinary Intern Program Housing

WHC proposes a new Veterinary Intern Program in collaboration with a regional university to be housed at the Shelter Center. In this program, interns will rotate through a three week internship as part of their educational experience. To house the interns, the Shelter Center will incorporate approximately six sleeping rooms along with a common kitchen and living space. You have asked me to confirm that this use would be permitted. First, the use of this space will be accessory to the animal shelter use. The use is customarily incidental to and subordinate to the principal use of an animal shelter, and the gross floor area devoted to the living accommodations will be less than 20% of the overall gross floor area of the Shelter Center. Second, the use is similar to an inn, which is permitted by § 801.6, and does not constitute a residential use. Specifically, traditional residential uses (e.g., apartment house, rooming house, boarding house or tenement house) require that either the space is under the exclusive control of the occupant or that the guest stays on a monthly or longer basis. The housing associated with the Veterinary Intern Program will provide for stays not to exceed four weeks in length and, as such, will be transient housing. Furthermore, rental arrangements will be negotiated between the regional university and WHC. Accordingly, I would view this use - as either an accessory use or an inn - as a permitted use as part of the Shelter Center.

Parking

Section 2101.1 of the Zoning Regulations does not specify the parking requirements for an animal shelter. For purposes of calculating the parking requirement, I will treat the entire Shelter Center as falling within "all other uses". That category requires parking spaces to be provided at a rate of one parking space per 600 square feet of gross floor area and cellar floor area. In computing the number of parking spaces required, that portion of the gross floor area or cellar area devoted to parking spaces, loading berths, loading platforms, service/delivery loading spaces, and vehicular access to parking spaces, may be excluded. 11 DCMR § 2118.4.

I believe that I have addressed the issues which we discussed and agreed upon. Please let me know if you have any further questions.

Sincerely, 
Matthew Le Grant
Zoning Administrator